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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,521	11/28/2005	Hans Rolf Pufal	4442.76045	9462
24978	7590	04/14/2008	EXAMINER	
GREER, BURNS & CRAIN			RODRIGUEZ, JOSEPH C	
300 S WACKER DR				
25TH FLOOR			ART UNIT	PAPER NUMBER
CHICAGO, IL 60606			3653	
			MAIL DATE	DELIVERY MODE
			04/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/536,521	PUFAL ET AL.	
	Examiner	Art Unit	
	JOSEPH C. RODRIGUEZ	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-17 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 7-17 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 May 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>5/25/05</u> .	6) <input type="checkbox"/> Other: ____ .

DETAILED ACTION

Specification

Claim Objections

The claims are objected to because of the following informalities:

Independent claims should begin with “A” and the claims depending therefrom should begin with “The”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schroder et al. (“Schroder”)(US 4,563,271).

Schroder (Fig. 12) teaches a sieve jigger for sorting solid material mixtures in a separating liquid bath according to density, comprising:

a rocker (53) arranged to pivot in the liquid bath and to carry the solid material mixtures;

a hydraulic cylinder (55) pivotally connected to the rocker to lift the rocker upwardly and to brake a downward movement of the rocker;

a displacement measuring device (66) operatively connected to a piston of the hydraulic cylinder;

a hydraulic oil supply and evacuation conduit (loop from 64 to 55) connected to a working chamber of the hydraulic cylinder;

a proportional control valve (641 wherein it is inherent from precise timing/frequency controlled operations of valve that valve includes a controllable electronic timing generator system) located in the hydraulic oil supply and evacuation conduit;

a governor (65); the displacement measuring device being operatively connected via the governor to the proportional control valve in order to control the upward movement and the downward movement of the rocker, including controlling at least one of a lifting displacement and a lifting frequency (col. 4, 5).

Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the device cited above is certainly capable of

having the proportional control valve is arranged such that hydraulic oil is fed through the hydraulic oil supply and evacuation conduit and the proportional control valve into the working chamber of the lifting and braking cylinder until before an upper dead point of the hydraulic cylinder is reached and, to lower the rocker, hydraulic oil is displaced from the working chamber of the hydraulic cylinder and is discharged through the hydraulic oil supply and evacuation conduit and proportional control valve in a free-

fall mode followed by a hydraulic braking of the cylinder piston before a lower dead point of the hydraulic cylinder is reached;

having the lifting and braking cylinder and the proportional control valve arranged to have a working cycle comprising a lifting phase of the rocker, a free-fall phase of the rocker and a braking phase of the rocker, wherein all three phases can be controlled independently; and

having a difference between an upper and lower piston position of the lifting and braking cylinder corresponds to a lifting displacement of the rocker, wherein a lifting displacement range lies between an upper dead point limit and a lower dead point limit of the cylinder piston. This is especially applicable in the instant application as the applied prior art expressly teaches a computer controller and inputs for varying the function of the hydraulic cylinder (col. 4 ,5).

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST). The Supervisory Examiner is Patrick Mackey, **571-272-6916**. The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see

<http://pair-direct.uspto.gov>

Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

/Joseph C Rodriguez/
Primary Examiner, Art Unit 3653
Jcr

April 14, 2008